

SANTA FE COUNTY

446800

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ORDINANCE NUMBER 1982-5

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INTRODUCED BY:

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AN ORDINANCE

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PROVIDING TERMS AND CONDITIONS WHICH SHALL GOVERN THE ISSUANCE OF PERMITS

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TO OPERATE CABLE TELEVISION SYSTEMS WITHIN SANTA FE COUNTY HEREAFTER GRANT-

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ED BY THE COUNTY OF SANTA FE AND PROVIDING TERMS AND CONDITIONS UNDER

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WHICH CABLE TELEVISION SYSTEM OPERATORS SHALL BE PERMITTED TO USE COUNTY

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PROPERTY AND RIGHTS OF WAY FOR THE OPERATION OF CABLE TELEVISION SYSTEMS.

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BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA

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Section 1. TITLE.--This Ordinance shall be known and may be cited as

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the Santa Fe County Cable Television Ordinance.

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Section 2. PURPOSE.--It is the purpose of this Ordinance to regulate

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the use of County roads and property by cable television operators within

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the unincorporated areas of Santa Fe County, to encourage the provision of

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cable television service to the citizens of Santa Fe County, to prevent the

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imposition of excessive rates to consumers of cable television service

1 within Santa Fe County and to provide for the protection of the health,
2 safety, and welfare of the public.

3 Section 3. GENERAL CONDITIONS.--Every permit granted by the County to
4 construct, maintain, and operate a community antenna television system
5 (hereinafter referred to as CATV or Cable Television System), in the unin-
6 corporated territory of the County of Santa Fe, in, under, along, above, or
7 accross County roads, easements, highways or properties of any nature over
8 which the County of Santa Fe exercises jurisdiction, shall be granted upon
9 and be subject to the requirements imposed by this Ordinance which shall
10 be cumulative and in addition to such terms and conditions imposed by the
11 Santa Fe County Land Development Code adopted October 28, 1980, effective
12 January 1, 1981, as it may be amended from time to time. Any permit to
13 operate a cable television system within Santa Fe County under this
14 Ordinance may also contain other conditions, restrictions, or requirements
15 imposed upon the CATV operator as the County Development Review Committee
16 and the Santa Fe Board of County Commissioners deem necessary to implement
17 the purposes of this Ordinance and other ordinances of Santa Fe County
18 and the laws of the State of New Mexico and the United States.

19 Section 4. DEFINITIONS.--For the purpose of this Ordinance the
20 following terms, phrases, words, and their derivations shall have the
21 meaning given herein. When not inconsistent with the context, words used
22 in the present tense include the future, words in the plural number include
23 a singular number, and words in the singular number include the plural
24 number. The word "shall" is always mandatory and not merely a directory.

25 A. "County" is the County of Santa Fe, New Mexico.

26 B. "Commission" is the Santa Fe County Board of County Commissioners.

27 C. "Community Antenna Television System," hereinafter referred to as
28 "CATV System," or "System," means a system of antennas, cables, wires,

1 lines, towers, wave guides, microwave, laser beam, fiber optics, master
2 antenna system, multiple distribution system, satellite, or any other con-
3 ductors, converters, equipment, or facilities designed and constructed for
4 the purpose of producing, receiving, amplifying, and distributing audio,
5 video, and other forms of electronic or electrical signals, used, or to be
6 used primarily to receive or produce television or radio signals directly
7 or indirectly off the air and transmit them to subscribers for a fee.

8 D. "operator" means a CATV Operator.

9 E. "Person" is a person, firm, partnership, association, corporation,
10 company, or organization of any kind.

11 F. "County Manager" means the duly appointed County Manager for Santa
12 Fe County and his successors.

13 G. "Land Use Administrator" is the duly appointed Santa Fe County
14 Land Use Administrator.

15 H. "County Road" means any public highway, including bridges,
16 streets, roads, or other public property or public easement which now
17 exists or which may hereafter exist in any unincorporated territory of the
18 County and in which the County has the authority to exercise jurisdiction
19 and has the authority to grant a permit to any person for the use of such
20 public property.

21 I. "C.D.R.C." means the Santa Fe County Development Review Committee.

22 Section 5. GRANT OF NONEXCLUSIVE AUTHORITY.--The granting of any per-
23 mit to any CATV operator shall not be construed to prevent the County from
24 granting any identical or similar permit to any other person or CATV opera-
25 tor. No application for a permit shall be rejected upon the grounds that
26 another CATV operator has previously been issued a permit to operate a CATV
27 system within an area sought to be serviced by an applicant for a permit.

28 Section 6. TERM OF PERMIT AND CONDITIONS.--All permits issued to CATV

1 operators under the provisions of this Ordinance shall be for a period not
2 to exceed fifteen (15) years. At any time during the term of a permit, the
3 County shall be empowered to change, modify, increase, or decrease any con-
4 ditions or requirements which may be imposed upon a CATV operator under the
5 provisions of this ordinance or by the laws of the State of New Mexico, and
6 the United States.

7 Section 7. ACCEPTANCE BY OPERATORS.--Any CATV operator who is
8 hereafter granted a permit under the terms of this Ordinance shall, within
9 thirty (30) days after the passage of a resolution adopted by the Board of
10 County Commissioners granting such permit, file with the Santa Fe County
11 Clerk a written acceptance of the terms and provisions upon which the per-
12 mit is issued along with an agreement to abide by the terms and conditions
13 contained in this Ordinance and imposed as a condition of issuing the per-
14 mit. Any subsequent modification of the terms and conditions imposed by
15 the Board of County Commissioners shall be accepted in the same manner.

16 Section 8. AUTHORITY TO OPERATE.--Any CATV operator awarded a permit
17 to operate within the unincorporated area of Santa Fe County shall have the
18 right and privilege to construct, erect, operate, and maintain in, upon,
19 along, above, across, over, and under the streets, roads, easements, public
20 ways, and public places of Santa Fe County now existing or hereafter exist-
21 ing and to use such public property within the service area boundary desig-
22 nated in the permit for the construction, maintenance, and operation of a
23 CATV system subject to any restrictions, or conditions required or imposed
24 in this ordinance and by the Santa Fe County Land Development Code, and by
25 resolution of the Board of County Commissioners granting such permit in-
26 cluding any conditions for the issuance of the permit recommended by the
27 County Development Review Committee and thereafter imposed by the Board of
28 County Commissioners.

1 Section 9. APPLICATION PROCEDURES.--Any person desiring to obtain a
2 permit to operate, maintain, or construct a CATV system within Santa Fe
3 County shall file with the Santa Fe County Land Use Administrator a printed
4 or typewritten application containing the following information:

5 A. A designation of the specific area of the County to be served by
6 the applicant. This designation may be made by written description of the
7 area to be served and shall also be shown upon a copy of a map of Santa Fe
8 County which shall be provided to the applicant by the Santa Fe County Land
9 Use Administrator.

10 B. A resume of prior business history of the applicant, including
11 experience of the applicant in the cable television field.

12 C. If the applicant is a corporation, a list of the stockholders of
13 the corporation if there are ten (10) or fewer shareholders in the corpora-
14 tion, including the percentage of stock owned or controlled by each share-
15 holder. If the corporation is owned by more than ten (10) shareholders, a
16 list of stockholders owning twenty percent (20%), or more of the outstand-
17 ing stock of the corporation.

18 D. If the applicant is a corporation, a list of the members of the
19 board of directors of the corporation and a list of the president, vice-
20 president, and operating manager of the system which will operate in Santa
21 Fe County together with a description of the education and business back-
22 ground of each person including experience in the field of cable television
23 and broadcasting experience.

24 E. If the applicant is a partnership, limited partnership, sole pro-
25 priator, or other form of business organization:

26 1. The owner or owners of the business and percentage of owner-
27 ship of any interested person.

28 2. The identity of the general manager or other person who will

1 be charged with the responsibility for management of the business affairs
2 of the company or organization within Santa Fe County, together with a des-
3 cription of the education and business background of such persons, includ-
4 ing experience in cable television and broadcasting.

5 F. A current certified financial statement of the applicant verified
6 by a certified public accountant.

7 G. A schedule of the proposed rates and charges to be charged to sub-
8 scribers.

9 H. The name and address of any parent corporation of the applicant or
10 any other business entity owning or controlling the applicant in whole or
11 in part, or any subsidiary company owned or controlled in whole or in part
12 by the applicant.

13 I. A copy of any other franchise, license agreement, or contract
14 which applicant has entered into with any other governmental entity located
15 within the territorial confines of Santa Fe County or directly adjacent to
16 the territorial boundary of the County of Santa Fe, New Mexico, and also a
17 brief description of any other such agreements which the applicant antici-
18 pates entering into with another such entity within one year from the date
19 that the application is made.

20 J. The identification of any other CATV systems operated by the
21 applicant, or formerly operated by applicant within the previous five (5)
22 years.

23 K. The application shall identify upon a map or plat the proposed
24 location of any building, structure, antenna, and cable which the applicant
25 intends to construct or place within Santa Fe County.

26 L. A copy of any pole attachment agreements which the applicant has
27 made with any person or utility company.

28 M. A binder or other evidence or certificate that the applicant will

1 be issued all necessary insurance policies required under the terms of this
2 Ordinance if and when the permit is issued.

3 Section 10. ADMINISTRATIVE PROCEDURE.--The County Land Use Adminis-
4 trator, or his designee, shall review the application and require the
5 applicant to submit further documentation or information to complete the
4 application in order to insure that all information necessary to process
5 the application has been provided. When the application is complete it
6 shall thereafter be processed in accordance with the applicable provisions
7 of the Santa Fe County Land Use Code, including Article III, Section 8 and
8 Article II, Section 2 of the Land Use Code governing development permits.
9 The Land Use Code Administrator shall not approve the application adminis-
10 tratively but shall follow the recommendation procedure to the County
11 Development Review Committee contained in Article II, Section 2, of the
12 Santa Fe County Land Use Code.

13 The County Development Review Committee may impose any conditions or
15 requirements necessary to implement the provisions of this Ordinance and
16 other Ordinances of the County of Santa Fe, as well as state and federal
17 law, and such conditions shall become an integral and material condition of
18 the permit if approved or adopted by the Board of County Commissioners.
19 The County Development Review Committee may also recommend a waiver of any
20 requirements imposed by this Ordinance or other ordinances of Santa Fe
21 County if conditions merit such a waiver and the provisions of Article II,
22 Section 3 of the Land Use Code are complied with, the same standards set
23 forth therein shall be applied to determine if a waiver should be granted
24 to a CATV operator. Upon approval of the application by the County
25 Development Review Committee the application shall be submitted to the
26 Santa Fe Board of County Commissioners for its consideration. The Board of
27 County Commissioners shall review the recommendation of the County Develop-
28 ment Review Committee and may approve, modify, or reject the recommendation

1 of the County Development Review Committee. If it approves the applica-
2 tion, the Board of County Commissioners shall adopt a resolution awarding
3 the applicant a permit to operate a CATV system in accordance with the
4 terms of this Ordinance and the conditions, restrictions, or waivers recom-
5 mended by the County Development Review Committee which are approved by the
6 Board of County Commissioners.

7 Section 11. APPEALS.--Any person aggrieved by a decision of the
8 County Development Review Committee may appeal the decision to the Board of
9 County Commissioners in the manner provided for in Article II, Section
10 2.4.3 of the Santa Fe County Land Use Code by filing a written notice of
11 appeal with the Land Use Administrator.

12 Section 12. INSURANCE.--On or before commencement of construction or
13 operation of any CATV system, the applicant shall obtain and provide satis-
14 factory evidence of a policy of liability insurance issued to the CATV
15 operator naming the County, its officers, agents, and employees as addi-
16 tionally named insured. Said liability insurance policy coverage for
17 Santa Fe County, its officers, agents, and employees shall provide liabil-
18 ity insurance in an amount equal to the maximum exposure to Santa Fe
19 County provided for under the New Mexico Tort Claims Act as it may be here-
20 after amended. Said policy of insurance shall be noncancellable without
21 sixty (60) days prior written notice directed to the Santa Fe County
22 Manager.

23 Section 13. EXTENSION OF EXISTING SYSTEMS.--Any CATV operator who has
24 previously been granted a permit to operate within the County of Santa Fe
25 may apply for an extension of its service area boundary within which it is
26 permitted to operate by making written application to the County Land Use
27 Administrator for an extension of the service area boundary. In the case
28 of an extension of a previously authorized system the applicant shall not

1 be required to resubmit the information required under Section 9 of this
2 Ordinance; however, the applicant shall be required to provide a map show-
3 ing the area to be served by the extension, the estimated number of struc-
4 tures to be passed, and other submittals provided for in Section 9 which
5 the Land Use Administrator deems necessary. The provisions of this
6 paragraph governing extension of existing systems shall apply only to the
7 extension of a system to an area contiguous to the service area boundary
8 of the permit previously granted. Construction and completion of an exten-
9 sion of the system shall be governed by the provisions of this Ordinance
10 governing construction and completion of systems under an original permit.

11 Section 14. ASSIGNMENTS.--Any CATV operator awarded any permit under
12 the terms of this Ordinance or any resolution contemplated herein, shall
13 not sell, transfer, assign, or lease the permit or any part thereof with-
14 out the consent of the Board of County Commissioners which consent shall
15 not be unreasonably withheld, but which shall be governed by the require-
16 ments of this ordinance. Any assignee, transferee, or lessee of the permit
17 issued hereunder shall be required to first obtain approval of an applica-
18 tion to operate a CATV system in the same manner set forth in Sections 9
19 and 10 of this Ordinance.

20 Section 15. CHANGE OF CONTROL OF OPERATOR.--Prior approval of the
21 Board of County Commissioners shall be required where ownership or control
22 of more than thirty percent (30%) of the right of control of an operator
23 is acquired by a person or group of persons acting in concert, none of whom
24 already own or control thirty percent (30%) or more of such right or con-
25 trol, singularly, or collectively. By acceptance of a permit the CATV
26 operator shall be deemed to agree that any such acquisition occurring
27 without prior approval of the Board of County Commissioners shall consti-
28 tute a violation of the permit granted by the County and shall constitute

1 grounds for revocation of the permit.

2 Section 16. INDEMNIFICATION.--Any CATV operator authorized to do
3 business under this Ordinance or any permit issued under this Ordinance
4 shall indemnify and hold the County harmless from and against any and all
5 loss, damages, liability, claims, suits, costs, and expenses, including
6 reasonable attorney's fees, regardless of the merit or outcome of any such
7 claim or suit, claimed or arising from any negligent or intentional act or
8 omission of the CATV operator, its officers, employees, agents, or subcon-
9 tractors.

11 Section 17. DISCRIMINATORY EMPLOYMENT PRACTICES.--Any CATV operator
12 authorized to do business within Santa Fe County under a permit issued
13 under this Ordinance shall not engage in any discriminatory practices or
14 make any discrimination, distinction, or restriction on account of color,
15 race, religion, sex, ancestry, or national origin contrary to the laws of
16 the State of New Mexico and the United States.

17 Section 18. CONDITIONS OF STREET OR ROAD OCCUPANCY.--

18 A. All transmission and distribution structures, lines, and equipment
19 erected or placed by any CATV operator within the territorial jurisdiction
20 of Santa Fe County shall be so located so as to cause minimum interference
21 with the proper use of streets, road, easements, or other public ways and
22 places, and to cause minimum interference with the rights and reasonable
23 convenience of property owners who adjoin any of said streets, roads, ease-
24 ments, and public ways and places.

25 B. In the case of disturbance of any street, road, easement, public
26 way, or any other property the grantee shall notify the Santa Fe County Land
27 Use Administrator and each owner or resident of property which will be
28 | disturbed or otherwise used of its intent to perform such work not less than

1 ten days prior to the commencement of work. The CATV operator shall per-
2 form all such work at its own cost and expense and shall, in a manner ap-
3 proved by the Santa Fe County Land Use Administrator, replace and restore
4 such street, road, easement, public way, or property in as good a condition
5 as before the work involving such disturbance was done.

6 C. If at any time the County shall lawfully elect to alter or change
7 the grade, alignment, or location of any road, street, easement, or other
8 public way, the CATV operator shall upon sixty (60) days written notice by
9 the County, remove, reinstall, and relocate its poles, wire, cables, under-
10 ground conduits, and other fixtures at its own expense.

11 D. Any poles or other fixtures placed in any public way by the opera-
12 tor shall be placed in such a manner so as not to interfere with the usual
13 travel on such public way.

14 E. The CATV operator shall, on the request of any person holding a
15 building moving permit lawfully issued, temporarily raise or lower its wire
16 to permit the movement of a building. If the expense incurred by the
17 operator in such activity may be charged to the person requesting the same,
18 the operator shall have the authority to request such payment in advance.

19 F. The CATV operator shall have the authority to trim trees upon and
20 over hanging streets, roads, easements, and public ways so as to prevent
21 the branches of such trees from coming into contact with the wire and
22 cables of the operator, except that at the option of the County, such
23 trimming may be done by it or under its supervision and direction at the
24 expense of the CATV operator.

25 Section 19. UNDERGROUND INSTALLATION.--In all sections or areas of
26 the County where the cables, wires, and pipes of other like facilities of
27 public utilities, including but not limited to electrical service and tele-
28 phone service, are placed underground, the CATV operator shall be required

1 to place its cables, wire, or other appurtenant equipment underground.

2 Section 20. APPLICATION FEE.--Each applicant for a permit to operate
3 a CATV system within the unincorporated areas of Santa Fe County over which
4 Santa Fe County exercises jurisdiction shall be required to submit an
5 application fee in the amount of Five Hundred Dollars (\$500.00) to defray
6 the administrative expense to the County in processing the application. An
7 application for an extension of the service area boundary of an operator
8 who has previously been awarded a permit shall be accompanied by an appli-
9 cation fee in the amount of One Hundred Fifty Dollars (\$150.00) to defray
10 the administrative expense to the County in processing the application for
11 an extension of service area boundaries.

12 Section 21. PERMIT FEES.--As consideration for the permission and
13 authority to use County streets, roads, easements, and property for the
14 operation of a CATV system, and in order to defray County administration
15 expenses each operator shall pay to the County on a quarterly basis a fee
16 in the amount of three percent to five percent (3% to 5%) of its gross
17 revenues from the retail sale of basic services and pay television servic-
18 es received by the operator on all retail sales of television signals to
19 subscribers within the unincorporated areas of Santa Fe County. The County
20 Development Review Committee may recommend, and the Board of County Commis-
21 sioners may approve a modification of this fee for any applicant after tak-
22 ing into consideration such factors as the initial capitalization costs of
23 a CATV operation, the residential density of the service area boundaries of
24 the operator, any other franchise, license, or permit fees which the opera-
25 tor must pay to other governmental entities within Santa Fe County or to
26 any other Municipal or County government contiguous to Santa Fe County.
27 The payment of this fee shall be made to the County on a quarterly basis
28 and shall be in addition to any other tax or payment owed to the County.

1 Section 22. LATE PAYMENT PENALTY.--In the event the operator fails to
2 make payment of the fee required under Section 21 on or before the due date,
3 the operator shall pay a penalty in the amount of ten percent (10%) of the
4 amount due. Failure to pay the required fee shall be sufficient grounds
5 for suspension or revocation of the permit.

6 Section 23. RECORDS.--Any CATV operator awarded a permit under the
7 provisions of this Ordinance shall keep and preserve for a period of five
8 (5) years after the date of each payment due to the County, all records
9 necessary to determine the amounts of such fees or other payments due to
10 the County. The operator shall, upon demand of the County make such re-
11 cords available for inspection by the County or its authorized representa-
12 tive. At the time that payment is made to the County of the fees required
13 under Section 21 the operator shall provide a statement showing the number
14 of subscribers and fees generated from those subscribers upon which the fee
15 paid to the County is based in order to enable the County to verify the
16 accuracy of the fee paid to the County.

17 Section 24. SUBSCRIBER RATES AND FEES.--Rates and fees charged to
18 customers of CATV service by the operator shall be established and set by
19 the CATV operator. The CATV operator shall be required at all times to
20 provide the County Land Use Administrator with a current schedule of all
21 rates, fees, and charges imposed by the operator.

22 Section 25. MODIFICATION OF RATES AND FEES.--A CATV operator issued a
23 permit under the authority of this Ordinance may increase or decrease rates
24 and fees charged to customers without approval of the County subject, how-
25 ever, to the following restrictions:

26 A. Not less than sixty (60) days prior to an increase in rates or
27 fees charged to customer, each customer shall be notified in writing of
28 the specific rate increases which the operator intends to implement.

1 B. The notice of proposed rate increase shall also notify each
2 customer that approval by the Santa Fe Board of County Commissioners will
3 be required if a petition opposing the proposed rate increase, signed by
4 five percent (5%) or more of the customers within the jurisdiction of
5 Santa Fe County, is received by the Santa Fe County Manager at least thirty
6 (30) days prior to the implementation of the proposed rate increase. In the
7 event that such a petition is received, the County Manager shall notify the
8 operator in writing and no increase in rates may be imposed without appro-
9 val of the Board of County Commissioners.

10 C. In the event that such a petition in opposition to the proposed
11 rate increase is received by the Santa Fe County Manager then the matter of
12 the proposed rate increase will be heard by the County Development Review
13 Committee. The County Development Review Committee shall, after public
14 hearing; recommend to the Board of County Commissioners the amount, if any,
15 of any rate increase which the operator should be allowed. Within sixty
16 (60) days of the recommendation of the County Development Review Committee
17 the Board of County Commissioners after taking into consideration the
18 recommendation of the County Development Review Committee and any other
19 evidence presented to it, shall determine the amount of any rate or fee
20 increased to be allowed.

21 D. In considering any application for rate increase under this
22 Section the County Development Review Committee and the Board of County
23 Commissioners shall take into consideration the need of the operator for
24 the rate increase, the expense of operation of the system and provision of
25 service to the customers within the County, the population density and
26 number and type of customers within the operator's service area boundary
27 and the effect of any proposed rate increase upon the customers of CATV
28 service, and the citizens of Santa Fe County.

1 Section 26. CONSENT OF OPERATOR TO COUNTY LIMITATION ON RATE INCREAS-
2 INCREASES.---By the acceptance of any permit to operate a CATV system from
3 Santa Fe County, the CATV operator shall be deemed to specifically grant
4 and agree to grant to the County, the power, authority, and right to re-
5 view, limit, and set rate increases as provided for under the terms of Sec-
6 tion 25 of this Ordinance.

7 Section 27. ESTABLISHMENT OF SYSTEM.--Construction of the system shall
8 proceed with reasonable diligence and shall be performed in a workmanlike
9 manner. Any operator granted a permit shall begin construction of the CATV
10 system within ninety (90) days from the date of final approval by the Board
11 of County Commissioners, and shall commence operations within one (1) year
12 from the date of final approval by the Board of County Commissioners unless
13 otherwise provided for by the Board of County Commissioners.

14 Section 28. PROVISION OF SERVICE WITHIN SERVICE AREA BOUNDARY.--
15 Upon the receipt of a request for basic service by any person residing
16 within the service area boundary of any CATV operator, the operator shall
17 promptly furnish the requested service to such person, provided however,
18 if the operator can show that the extension of such service to such person
19 is impractical, technically unfeasible, economically noncompensatory, or
20 will impose an undue hardship, the operator may decline to provide service
21 to such location. In the event that the operator declines to provide ser-
22 vice to such location the operator shall advise such person, in writing,
23 of the reasons for the denial of service.

24 Section 29. APPEAL FROM DENIAL OF EXTENSION OF SERVICE.--Any person
25 aggrieved by a denial of a request for provision of service or extension of
26 service within a permitted service boundary by a CATV operator may file a
27 written appeal to the County Development Committee for its consideration.
28 The appeal shall be in writing and shall be submitted to the Santa Fe

1 County Manager setting forth the name and address of the appellant, the
2 site at which the person seeks to obtain service, and shall be made within
3 thirty (30) days of the receipt of the written denial of service. After
4 hearing of the appeal and after consideration of the reasons for the opera-
5 tor's denial, the expense required to provide service to the appellant and
6 any other issues presented to the County Development Review Committee by
7 the appellant and the operator, the County Development Review Committee
8 shall enter a decision either denying the request for service, or requiring
9 the CATV operator to provide service to the appellant. If the County
10 Development Review Committee requires the CATV operator to provide service
11 to the appellant, it shall determine the time within which the service
12 must be provided by the operator and may make an equitable apportionment
13 between the appellant and the operator of the costs necessary to provide
14 the service. Any person aggrieved by a decision of the County Development
15 Review Committee regarding the approval or denial of extension of service
16 under this Section may appeal to the Board of County Commissioners in the
17 manner provided for in Section 11 of this Ordinance.

18 Section 30. SIGNALS - CHANNELS.--Any CATV system operating under the
19 authority of this Ordinance shall provide the number and quality of signals
20 and channels which a CATV operator is required to carry under all appli-
21 cable federal laws, rules, and regulations.

22 Section 31. FCC COMPLIANCE.--Any CATV operator operating under the
23 authority of this Ordinance shall, at all times, comply with the rules and
24 regulations governing community and cable television system operations pro-
25 mulgated by the Federal Communications Commission. This shall particularly
26 include adherence by the operator to FCC rules regarding technical and
27 engineering specifications involved in the construction and operation of
28

1 the operation of the CATV system and the carriage therein.

2 Section 32. ACCESS FOR PUBLIC, EDUCATIONAL AND GOVERNMENTAL PURPOSES.

3 --Any CATV operator authorized to operate under a permit issued under the
4 authority of this Ordinance shall be required to provide one or more
5 channels which shall be specifically designated for use for noncommercial
6 public access use available on a first come, first serve basis; for educa-
7 tional purposes for use by local education authorities; for local govern-
8 ment uses such as public meetings, election issues, and the like; and be
9 available for leased access use.

10 Section 33. CHANNELS AND EQUIPMENT FOR ACCESS USE.--The number of
11 channels and the equipment which the CATV operator will be required to pro-
12 vide for the purpose of providing access for public, educational, govern-
13 mental purposes and leased access purposes shall be recommended by the
14 County Development Review Committee and imposed by the Board of County
15 Commissioners after consideration of the following factors:

16 A. The service area boundary which the applicant intends to serve.

17 B. The anticipated number of customers the operator intends to serve.

18 C. Any franchise, permits, or agreements which the operator has
19 entered into with any other governing body, including any arrangements
20 which the operator may have made with any third party for the provision of
21 public access, educational, governmental, and leased access television
22 programming.

23 D. The anticipated need and use of channels for public, educational,
24 governmental, and leased access uses.

25 E. The geographical proximity of the operator's service area boundary
26 to incorporated municipalities.

27 Section 34. EQUIPMENT.--Each operator shall be required to have

28 available such equipment for local presentation of programming as shall be

1 required by the Board of County Commissioners for filming, editing, and
2 presentation of public access, educational, governmental, and leased access
3 programming, and the operator may impose charges for the use of equipment,
4 personnel, and production of such programming which shall be reasonable and
5 consistent with the goal of affording users low cost means of television
6 access.

7 Section 35. MODIFICATION OF REQUIREMENTS FOR ACCESS CHANNELS AND
8 EQUIPMENT.--The number of channels and the type of equipment which a CATV
9 operator shall be required to provide may be modified and increased from
10 time to time as the Board of County Commissioners may determine.

11 Section 36. SERVICE TO PUBLIC BUILDINGS.--Any CATV operator operating
12 under the authority of this Ordinance shall, at its cost, provide and main-
13 tain at least one cable television drop to each County facility, law enfor-
14 cement facility, fire station, public school, or County building located
15 within its authorized service therein upon request for service. The ini-
16 tial sites at which such service shall be provided shall be established
17 when the initial permit is granted. The operator shall be entitled to re-
18 ceive payment for its costs of installation in such facilities; however,
19 no monthly subscriber fee shall be charged for basic services at such
20 facilities. The operator may impose additional fees for premium or pay
21 services provided at such facilities where the operator is permitted to
22 provide such premium services and they are provided.

23 Section 37. SYSTEM DEVELOPMENT.--The CATV operator shall maintain and
24 upgrade the system and services to reflect those technical and economic
25 developments occurring during the term of the permitted operations which
26 benefit the public in terms of new and more effective and efficient
27 service.

28 Section 38. SUBSCRIBER COMPLAINTS.--Investigation and resolution of

1 subscriber complaints shall be effected by the Operator not later than
2 three (3) business days after receipt of the complaint. The operator shall
3 maintain a written complaint record containing the following information:

- 4 A. Date and time of subscriber complaint.
- 5 B. Identification of the complainant by name and address.
- 6 C. Description of the nature of the complaint.
- 7 D. A record of the action taken by the operator to resolve the
8 complaint.

9 E. The operator shall not be required to maintain records of routine
10 service calls for complaints which are resolved within twenty-four (24)
11 hours of the time the complaint was made.

12 F. The complaint record shall be kept at the operator's local office
13 for a period of two (2) years after the receipt of such complaint and shall
14 be made available for inspection upon request of the County.

15 G. Each year at the time that the permit fee is submitted to the
16 County, the operator shall provide a written record containing the forego-
17 ing information for any complaint regarding interruption or interference
18 with service which was not resolved within a period of twenty-four (24)
19 hours from the time the complaint was received by the operator.

20 Section 39. INTERRUPTION OF SERVICE.--In the event that an interrup-
21 tion in service has been reported to the operator by any subscriber, and
22 has not been remedied within forty-eight (48) hours after notification, the
23 operator shall provide a reduction of that month's fee to the affected sub-
24 scribe in proportion to the time period for which service was interrupted.
25 The fee reduction will not be applicable for interruption in service caused
26 by conditions beyond the operator's control or in circumstances for which
27 the prior approval of the interruption was obtained from the County.

28 Section 40. LOCAL BUSINESS OFFICE.--The operator shall maintain a

1 local business headquarters office within Santa Fe County or within a
2 sixty-five (65) mile radius from the City of Santa Fe, and provide the
3 County with the name, address, and telephone number of persons who will act
4 as the operator's agent to receive complaints regarding quality of service,
5 equipment, malfunctions, and similar matters. The business office shall be
6 open to receive inquiries or complaints from subscribers during normal
7 business hours.

8 Section 41. SUBSCRIBER PRIVACY.--The operator shall not initiate or
9 use any form, procedure, or device for procuring information or data from
10 subscribers premises by use of the CATV system without prior valid written
11 authorization from each subscriber so affected. Valid authorization shall
12 mean written approval from the subscriber for a period of time not to ex-
13 ceed one (1) year, and said authorization shall not have been obtained
14 from the subscriber as a condition of service.

15 Section 42. SUBSCRIBER LISTING.--The operator shall not, without the
16 specific authorization of the subscriber involved, sell or otherwise make
17 available to any person, lists of the name and address of any subscriber or
18 any list which identifies the viewing habits of any individual subscriber,
19 except as the same is necessary for the billing of subscribers for the
20 operator's services or to provide the County with the information the
21 operator is required to disclose to the County under this ordinance. The
22 operator shall not provide information concerning the viewing habits of
23 identifiable subscribers to any person, group, or organization for any pur-
24 pose, whatsoever. Any breach of this Section by an operator may result in
25 the revocation of any permit issued from the County.

26 Section 43. CANCELLATION OF PERMIT.--

27 A. INSOLVENCY.--The Board of County Commissioners shall have the
28 right to cancel any permit one hundred twenty (120) days after the appoint-

1 ment of a receiver, trustee, or other assignee to take over and conduct the
2 business of the operator unless within one hundred twenty (120) days after
3 the nomination, appointment, or election of such receiver, trustee, or
4 nominee, such receiver, trustee, or nominee, shall have fully complied with
5 the provisions of Section 9 and 10 of this Ordinance and obtained approval
6 for the continued operation of the system under the original permit issued
7 by the County.

8 B. VIOLATION OF ORDINANCE AND BREACH OF PERMIT CONDITIONS.--The Board
9 of County Commissioners shall have the right to cancel any permit issued to
10 a CATV operator upon a finding that the operator has violated any provision
11 of this ordinance or has violated any conditions imposed upon the operator
12 by the County Development Review Committee and the Board of County
13 Commissioners as a condition of receiving a permit.

14 Section 44. CONFLICTING PROVISIONS.--Where there exists a conflict
15 between any limitation or requirement in this Ordinance and any applicable
16 limitation or requirement contained elsewhere in this Ordinance or in the
17 Santa Fe County Land Use Code, or in any other ordinance, regulation, or
18 law the more restrictive limitation or requirement shall prevail.

19 PASSED, ADOPTED, AND APPROVED, this 9th day of August, 1982.

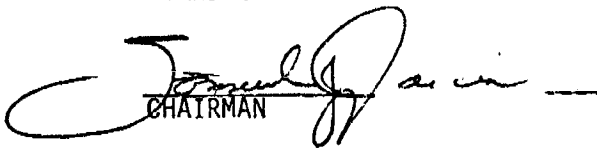
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21

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

22

23


CHAIRMAN

24

25

26

27

28

1 This ordinance was recorded in the Santa Fe County Ordinance Book on _____
 2 August 23, 1982, in Book No. 446, Pages 800 through
 3 821. This ordinance shall take effect thirty (30) days after the
 4 date of recording.

5 A T T E S T :

6 Carolina R. Leatherman
 7 COUNTY CLERK

8
 9 APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

10 James Murphy
 12 COUNTY ATTORNEY

15 COUNTY OF SANTA FE) SS 501,356
 16 STATE OF NEW MEXICO)
 17 I hereby certify that this instrument was filed for
 18 record on the 23rd day of August A.D.,
 19 82, at 2:56 o'clock P m.,
 and was duly recorded in book 446
 page 800-821 of the records of Santa Fe County.

19 Witness my Hand and Seal of Office
 CAROLINA R. LEATHERMAN
 County Clerk, Santa Fe County, N.M.

20 Carolina R. Leatherman
 21 Santa Fe Co. Clerk Deputy